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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 30 April 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of Guyana

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GE.97-16314 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of Guyana (E/1990/5/Add.27; HRI/CORE.1/Add.61; E/C.12/Q/GUY/1; E/C.12/CA/28)

1. At the invitation of the Chairperson, Mr. Brewster (Guyana) took a place at the Committee table.

2. Mr. BREWSTER (Guyana) reminded members that Guyana had not been able to submit its initial report until 1995, despite the numerous efforts made by the Guyanese authorities to submit it earlier. He welcomed the opportunity which his Government had been given to send written replies to the questions raised by the Committee's pre-sessional working group to supplement the report. His Government had committed itself to ensuring observance of the human rights of the people of Guyana and, since the submission of its report in 1995, had unremittingly striven to improve living and working conditions.

3. The minimum daily wage had been regularly increased in 1996 and 1997. With regard to the family, the Government had established a policy aimed at improving the status of women and strengthening family links. Several laws had been enacted on that question, notably the 1995 Abortion Act which was designed to ensure the greater well-being of women, and the 1996 Act relating to domestic violence. In the area of housing, the Government was endeavouring to find solutions to facilitate home ownership by persons with low incomes. In the area of health, a new mobile health unit had been set up in 1995, thanks to the assistance of the international community, but its effectiveness was being impeded by the lack of qualifications of staff. For that reason the Ministry of Health had recently set up training programmes for specialized health workers.

4. Despite the difficulties entailed by economic globalization for small countries, which were still affected by the debt problem, his Government remained committed to fulfilment of the international obligations it had assumed, and in particular to the realization of economic, social and cultural rights.

5. In reply to Mr. Kouznetsov, who wished to know the rate of the Guyanese dollar to the United States dollar so as to be able to understand the value of the financial indicators given in the report, he said that one United States dollar was worth approximately 140 Guyanese dollars.

6. Mr. WIMER said that the documents received did not contain replies to all the questions asked by the Committee. He observed that it was preferable not to ask States parties to provide further statistics while their report was being considered.

7. Mr. SADI said he was sure that the Guyanese Government was taking its obligations under the Covenant seriously but would like to know why it had not

sent experts to assist Mr. Brewster in answering the Committee's questions. He would also welcome clarification of the status of the Covenant in Guyanese legislation.

8. Mrs. BONOAN-DANDAN thanked Mr. Brewster for updating the information provided to the Committee, notably with regard to the situation of women. She would like to know what measures had been taken by the Government to publicize the Covenant, since the report contained no information on that point. According to the core document, workshops and seminars were organized by the Government and NGOs in order to make the rights of the child better known, but no mention was made of economic, social and cultural rights. She would therefore like clarification of what Mr. Brewster meant when he stated that Guyana was taking its obligations under the Covenant seriously.

9. Mr. TEXIER, reverting to a question already asked in the written questions on paragraph 8 of the report, wondered whether, since the time when Guyana had ratified the Covenant, national legislation had been reviewed in order to bring it into line with the Covenant's provisions if such had not been the case. He would also like to know how the report of Guyana had been prepared, and more particularly whether the NGOs participating in the work of the Inter-Agency Permanent Committee on Human Rights set up by the Government had been genuinely associated with the drafting of the report and whether Guyana intended to take steps to make the Committee's work better known.

10. Mr. AHMED asked the representative of Guyana to what extent the measures to alleviate his country's public debt granted by the United Kingdom and by the Paris Club creditors (see secretariat note E/C.12/CA/28) had facilitated the restructuring of the national economy.

11. Mr. THAPALIA said he would welcome statistics on trends in the main demographic and socio-economic indicators over the past five years and on the share of the national budget allocated to health, education and culture.

12. Mr. RATTRAY, noting that articles 138 to 151 of the Constitution mentioned in paragraph 8 of the initial report (E/1995/Add.27) concerned only civil and political rights, asked whether some of the economic, social and cultural rights established in articles 122 to 129 of the Constitution had been invoked in the courts and been the subject of court decisions. He would also like the Guyanese Government to answer the question concerning the drafting of an optional protocol asked in question 5 of the list of issues (E/C.12/Q/GUY/1). Lastly, he asked whether the Government had prepared a short- or long-term plan, or a timetable, with a view to the realization of those rights.

13. Mr. BREWSTER (Guyana) expressed regret that his Government had been unable to send to Geneva a delegation of experts to help him to reply to the Committee's questions. Sending such a delegation would have been very expensive, and he suggested that it might be more economical to use video-conferencing or audio-conferencing techniques. As to the status of the Covenant within the domestic legal order (E/C.12/Q/GUY/1, para. 2), he requested the Committee to refer to the appendix relating to that question in the written replies (document without a symbol distributed at the meeting). All international treaties must be translated into national legislation by

Parliament. Some rights such as the right to employment, health care, etc. were not fundamental rights that could be invoked in the courts, but merely statements of principle or ideals. On the question whether some of the rights referred to by Mr. Rattray had been invoked in the courts, he would have to seek details from the authorities. He would also have to inquire about his Government's position on the drafting of an optional protocol.

14. Although there was no plan geared to the realization of economic, social and cultural rights, his Government was currently working on an economic development strategy which would define targets in various social areas (health care, employment and equality). He would seek fuller information on the subject from his Government if the Committee so wished. He would also inquire whether the legislation in force or under preparation was systematically vetted in the light of the provisions of the Covenant. As to the participation of NGOs in the Inter-Agency Permanent Committee on Human Rights, the publicity given to economic, social and cultural rights, and the demographic and socio-economic statistics requested, he referred members of the Committee to the appendices of the written response.

15. On the question of debt alleviation, he said that 13 bilateral creditors had recently granted his country a debt reduction. It was partly through those alleviation measures that Guyana had been able to increase substantially the share of social expenditure, notably on health and education. However, even though part of the debt had been written off, the country still had to repay the interest on the remaining debt. The international economic environment reduced the Government's room for manoeuvre in relation to the realization of economic, social and cultural rights, but those rights were in no way being called in question.

16. The CHAIRPERSON requested the secretariat to distribute the relevant statistics and to supplement them, if necessary, with the data contained in UNDP's Human Development Report.

Implementation of articles 1 to 5

17. Mrs. BONOAN-DANDAN said she would like to receive precise replies to questions 10 (rights of the Amerindian population) and 11 (situation of non-nationals) on the list of issues (E/C.12/Q/GUY/1).

18. Mr. MARCHAN ROMERO said he too considered that the reply to the question about the rights of the Amerindian population was unsatisfactory. The Committee wished to know what the actual situation of that minority was, particularly in view of the disturbing information on the Amerindian Act contained in the note by the secretariat (E/C.12/CA/28). He would also welcome details on the parliamentary committee appointed to recommend revisions to that Act.

19. Mr. GRISSA observed that the statistical tables contained in the appendix were of little use to the Committee.

20. The CHAIRPERSON said he had asked the secretariat to distribute statistics produced by the Inter-American Development Bank (IDB), which were interesting but did not contain data on poverty and health.

21. Mr. ADEKUOYE asked whether it was true that the provisions of the Amerindian Act were not generally implemented and how it was that that Act had not been considered unconstitutional. Did the Amerindians have the right to exploit their own natural resources? And did they receive appropriate compensation from the companies to which concessions had been awarded?

22. Mr. TEXIER observed that the initial report and written replies of the Guyanese Government did not contain specific data, notably on the situation of the Amerindians, their rights, their access to economic wealth, the use of their language, education, etc. He also wished to know whether, in practice, equality between men and women existed with regard to not only remuneration, but also access to senior posts. He drew the delegation's attention to the need to provide specific details on the questions concerning each article of the Covenant and, if necessary, on the difficulties encountered in implementing it.

23. Mr. WIMER considered that the problem derived from the fact that the replies given in the initial report (E/1990/5/Add.27) were brief and insufficient, and cited paragraphs 10 and 12 of that report by way of example. Which rights were not enjoyed by foreigners? Which rights were duly protected by the Covenant and which were not?

24. Mr. CEAUSU shared Mr. Wimer's concern about paragraph 12 of the initial report. In that connection, he noted that the written reply to question 11 of the list of issues (E/C.12/Q/GUY/1) referred only to the specific regime covering nationals of certain countries with which Guyana had special relations (CARICOM, Commonwealth). The Government should have given details concerning the general regime applicable to foreigners lawfully resident in Guyana, notably concerning the right to work, social security and trade union freedom. It was important to know whether non-nationals benefited from the laws and enjoyed the freedoms proclaimed in the Covenant.

25. Mr. BREWSTER (Guyana) said that, after having heard the questions asked and the observations made by members of the Committee, he had a better understanding of what they expected. He would ask his Government to give a more detailed response to the questions concerning the Amerindian population - including statistical data and specific facts, the ethnic minorities and non-nationals in Guyana. The latter did not constitute a significant proportion of the population; most non-nationals worked for regional or other organizations established in Guyana. It should not be difficult to provide updated statistical data on subjects such as poverty, health, etc.

26. As to the place occupied in the national legal order by the international human rights instruments in general and the International Covenant on Economic, Social and Cultural Rights in particular, reference should be made to the relevant appendix which had been sent to the secretariat.

27. The CHAIRPERSON said that a detailed note on that point would be distributed to members of the Committee.

28. Mr. GRISSA asked what was meant by a significant proportion of the population. In any event, the realization of rights was not measured in

quantitative terms. And on the basis of what criteria was a person deemed undesirable under the Expulsion of Undesirables Act, mentioned in paragraph 11 of the report (E/1990/5/Add.27)?

29. Mrs. BONOAN-DANDAN said she would like to have fuller information on the attention given to economic, social and cultural rights compared, for example, with other categories of rights, such as civil and political rights and the rights of the child.

30. In connection with questions 9 to 12 relating to article 2 of the Covenant, the information contained in the written response was too brief and did not give members of the Committee a precise idea of the legislative provisions in force on non-discrimination, particularly in relation to women, elderly persons, minors, disabled persons and persons suffering from AIDS.

31. She would also welcome details of the recommendations referred to on page 2 of the written response.

32. Mr. SADI asked whether affirmative-action measures were or would be taken to promote equality between men and women. Was Guyana in favour of the establishment of a quota system for achieving that objective?

33. Mr. CEVILLE noted that neither the report of Guyana nor the written response contained specific information showing that the primary education, secondary education, higher education and basic education provided in Guyana were consistent with the requirements of the Covenant.

34. Mr. BREWSTER (Guyana) replied that the rights of non-nationals were guaranteed on the same basis as those of the population as a whole. The question of the dissemination of the Covenant had been dealt with in general terms but, if the Committee so wished, fuller information could be provided in due course. No affirmative action was taken to promote equality between men and women, and there was no quota system.

35. Good progress was being made in the realization of the right to education: primary education and secondary education were free of charge. Higher education was no longer free, but students were eligible for scholarships. In primary education, 8 per cent of children were not enrolled; the percentage was higher in secondary education.

36. Mr. SADI asked whether economic planning officials in Guyana endeavoured to prepare their plans in the light of the principles set out in the Covenant.

37. Mr. ADEKUOYE, referring to the equal enjoyment of economic, social and cultural rights by men and women, asked whether measures were taken to ensure that women received equal pay for equal work. On another point, what was the situation of battered women?

38. Mrs. BONOAN-DANDAN said it was important that an answer should be given to question 9 on the list of issues. She asked whether the publication on the development of the situation of women in Guyana from 1980 to 1993 could be made available to members of the Committee.

39. Mr. PILLAY asked whether article 29 of the Constitution, which prohibited any form of discrimination against women on grounds of sex, could be invoked in the courts, and more precisely whether the Guyanese High Court and Court of Appeal had established any case law on the question. Were there also provisions guaranteeing the rights of children born out of wedlock?

40. Mr. BREWSTER (Guyana) replied that to his knowledge no cases relating to the rights of women or the rights of children born out of wedlock had come before the courts. Fuller information on the question would be sent to the Committee shortly. And as far as he knew, there were no similar provisions concerning disabled persons or the other categories mentioned in question 9.

41. On the other hand, account was taken of economic, social and cultural rights in the formulation of economic strategy. The problem which arose was not that of the recognition of those rights, but that of their specific realization: how, for example, to make full employment or access to decent health care available to all.

42. On the question of violence against women, statistics could be communicated to members of the Committee.

43. Mrs. JIMENEZ BUTRAGUEÑO asked how, in the absence of a constitutional court, the Guyanese Government could guarantee that the Constitution was respected. She also wished to know whether there was any legislation that discriminated against women. Lastly, the Committee would like to receive the clarification requested in question 14 of the list of issues.

44. Mr. GRISSA said he was anxious to know whether the questions to which no immediate answer could be given would be answered in due course.

45. Mrs. BONOAN-DANDAN asked what measures the Government was taking to deal with the problems of violence against women and children and, in general, violence within the family?

Implementation of articles 6 and 7

46. Mrs. JIMENEZ BUTRAGUEÑO said that the appendices mentioned by Mr. Brewster did not constitute replies to the Committee's questions.

47. The CHAIRPERSON agreed and asked to what extent the data contained in appendix 2, for example, constituted replies to the questions on employment and unemployment.

48. Mr. PILLAY suggested that, in lieu of appendices, the drafters of reports should provide precise data in a single paragraph. He drew attention to the obligation on countries to endeavour to give precise replies to the Committee's questions.

49. The CHAIRPERSON said that, in his view, it was pointless to continue consideration of the implementation of articles 6 and 7, since there were no precise replies to the relevant questions.

50. Mr. GRISSA said he wished to emphasize two problems relating to articles 6 and 7. The first concerned the vague and incomplete nature of the data relating to employment and unemployment. And the second concerned working conditions, notably in the bauxite and gold mines. What was the state of health of the workers concerned? And what measures were taken to protect them?

51. Mr. CEAUSU, reverting to paragraph 30 of the report relating to the Occupational Safety and Health Division, one of whose tasks was to inspect workplaces, asked for details on the powers of inspectors from that Division. Were they authorized to impose fines and to order the closure of a work site which was considered dangerous or had been the scene of accidents? The Government should have given statistics on the frequency of such inspections and the effectiveness of the systems set up to protect workers.

52. The CHAIRPERSON said that two courses were open to the Committee. It could continue to ask questions indicating the areas where the replies given were inadequate and see whether Mr. Brewster could supply details the next day. Or it could terminate consideration of the report, adopt preliminary observations and seek to obtain further information in due course. The documentation available could not enhance the dialogue between the Committee and the representative of Guyana.

53. Mr. WIMER favoured the second solution. Asking further questions would not advance the work of the Committee and would amount to putting Mr. Brewster through a kind of torture session. Although the documentation provided was unquestionably insufficient, the Committee did have sufficient information to take stock of the situation, after which it could turn to another subject.

54. Mr. CEAUSU considered that the Committee should continue to ask questions and make observations on the paragraphs of the report. Mr. Brewster would thus be able to take note of the Committee's concerns and either respond to them or inform the authorities in his country.

55. Mr. BREWSTER (Guyana) said that the replies to some questions could be obtained quickly. He considered that the exchange of views with the members of the Committee had been useful, since he was now in a position to inform his Government of the nature of the replies expected by the Committee. In his opinion, the persons responsible for the preparation of the report should have had consultations with the secretariat, so as to be able to give the replies expected by the Committee.

56. Mr. TEXIER pointed out that a lengthy document had been prepared, stating what was expected of Governments, namely, information on the state of legislation, a modicum of statistical information, and a description of the actual situation with regard to economic, social and cultural rights. The Committee was in an impasse, for lack of satisfactory replies on several important points, notably employment, unemployment and purchasing power. In his view, further written information was essential in order to ascertain the actual status of economic, social and cultural rights and their implementation vis-à-vis the most vulnerable sectors of the population.

57. Mrs. BONOAN-DANDAN said she appreciated Mr. Brewster's difficulties but nonetheless considered it unnecessary to give Governments any assistance since the questions asked were straightforward and direct. Giving the answers was simply a question of political will. She proposed that the Committee should adhere to its usual practice.

58. Mr. GRISSA expressed regret at the incompetence or complete irresponsibility of the persons who had drafted the replies before the Committee. He proposed that the dialogue with Mr. Brewster should be continued pending the receipt of more complete replies.

59. Mr. ADEKUOYE shared the view of members who wanted the dialogue to continue and the representative of Guyana to be given time to obtain further information.

60. Mr. WIMER suggested that Mr. Brewster should request his Ministry of Foreign Affairs to transmit to the Committee a new document containing more precise replies to the questions asked and describing the actual status of economic, social and cultural rights in Guyana.

61. Mr. BREWSTER (Guyana) said he doubted that the replies to such complex questions could be obtained overnight. Although replies could be obtained to the questions of a statistical nature, the answers to the others would take longer to prepare and necessitate consultations with different ministries.

62. The CHAIRPERSON, summarizing the deliberations, considered it pointless to continue the dialogue and expressed serious doubt that replies could be obtained from one day to the next. The State party had nevertheless displayed a measure of goodwill and the Committee could expect to receive additional information. He proposed that the Committee should send to the Government of Guyana a letter containing a list of matters pending and, possibly, additional questions and a detailed description of its working methods. The Government would be invited to send a delegation to the Committee's next session and to prepare written replies well in advance, failing which the Committee would adopt stringent and detailed concluding observations.

63. Mr. BREWSTER (Guyana), endorsing that action, said he would like to know the shortcomings which the Committee had found in the replies given, so as to be able to inform his Government.

64. The CHAIRPERSON requested the country rapporteur to go through the list of issues, identify the shortcomings and indicate what additional information was needed.

The meeting rose at 1.05 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 6TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 30 April 1997, at 3 p.m.

Chairperson: Mr. ALSTON

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GE.97-16317 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS (agenda item 7) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Guyana (E/1990/5/Add.27; E/C.12/Q/GUY/1) (continued)

1. At the invitation of the Chairperson, Mr. Brewster (Guyana) took a place at the Committee table.

Issues relating to the implementation of the Covenant (continued)

2. Mr. JIMENEZ BUTRAGUEÑO, referring to the general framework within which human rights were protected (E/C.12/Q/GUY/1, section I, B), asked whether there was any actual jurisprudence in Guyana establishing mechanisms for protecting economic, social and cultural rights that were guaranteed by the Constitution and the laws. It would be interesting to know of any specific cases that had been brought to secure, for instance, equality of women or family rights.

3. Guyana's low human development index even during a period of apparently high economic growth was a matter of concern: Guyana was ranked 103rd by the United Nations Development Programme, below other countries in the region, in respect of such matters as life expectancy, literacy and education. The Government should provide information on its plans for improving living conditions and opportunities for the population. She was also concerned about the protection of the rights of the country's indigenous people, a true minority of only 6 per cent. The State held 90 per cent of their lands, and the Ministry of Indigenous Affairs reportedly lacked funds and personnel and was consequently ineffective. She wondered if there had been any improvement in the infant mortality rate of 34 per 1,000 under the age of 5; 1995 statistics from outside sources reported that malnutrition was a cause of 95 per cent of infant deaths.

4. Mr. TEXIER, referring to article 7 of the Covenant, said that the Committee would be interested in seeing minimum wage statistics that not only indicated the actual figures but also showed the buying power they represented. He also wished to know whether the laws regarding annual leave had been liberalized.

5. Mr. SADI, referring to article 6 of the Covenant, observed that some countries focused on raising the gross national product (GNP) at the expense of job creation. He would like to know whether the Guyanese macroeconomic planners kept that concern in the forefront and were setting up the kind of industrial and agricultural projects that would generate work.

6. Mr. BREWSTER (Guyana) said that the macroeconomic planners in his country were very conscious of the need to increase employment opportunities as distinct from raising the GNP. There were, however, constraints: the

economy was driven by the private sector and its labour-saving technologies. The Government did not try to manage job creation directly but rather pursued indirect approaches and incentives.

7. Mrs. BONOAN-DANDAN, speaking as Rapporteur, said that she had been asked by the Committee to indicate to the Guyanese delegation the kind of response that was expected from States parties and their delegations in the submission and consideration of reports.

8. Regarding the report itself (E/1990/5/Add.27), relevant statistics - preferably disaggregated by sex - should be supplied, where appropriate or where requested in the list of issues, and should be included in the main body of the report; as should any descriptive information requested, which should be complete, specific and practical. Guyana's report, instead, had repeatedly referred the Committee to appendices in which the data was of little relevance. Also, the State party should focus on the de facto situation rather than on generalities, reporting on practical application of any legislation, the difficulties the Government was encountering in the implementation of any of the articles of the Covenant and the steps it was taking to surmount those difficulties. All those points were clearly spelled out in the Committee's revised general guidelines regarding the form and contents of reports.

9. The delegation's written responses to the list of issues could only be characterized as irresponsible, and needed to be totally re-written. In Section C, 6, for example, the Committee asked what had been done to publicize the Covenant and make the public and the authorities aware of their rights under the Covenant; but the Government's curt answer provided no supporting evidence that it had indeed done so.

10. The Committee's very specific questions on non-discrimination and international cooperation and on equality between men and women had also received short, perfunctory answers, and the same held true for all the articles of the Covenant. Laws, for instance, had been simply enumerated, but no indication had been given of their content or implications, of the authorities responsible for implementing them and monitoring their implementation, or of the problems encountered. In the case of almost half of the articles, the Government had promised to provide subsequent information but had never done so. The Committee expected comprehensive answers to the list of issues, detailing actual progress made, discussing the indicators used to measure progress and providing appropriate statistics.

11. The Committee's lists of issues were not drafted lightly. It was critical to the Committee's work to understand the situation in the country of a State party, and it was to the State party's advantage to discuss its difficulties with the members of the Committee. The Committee did not want a rosy picture, but rather a real picture.

12. The CHAIRPERSON observed that the Committee's lists of issues were a carefully drafted, comprehensive and quite precise statement of the Committee's principal concerns, and Governments, should give them the consideration they deserved. The Committee would be sending a letter to the Government of Guyana outlining its general approach and again furnishing the

guidelines to be followed. He would also ask the representative of Guyana to convey a sense of what the Committee needed to receive by the next session in the form of advance written replies. Guyana should ensure that its delegation, preferably from the capital, would be able to answer questions put to it. He noted that the Committee had concluded the first phase of its consideration of the initial report of Guyana.

13. Mr. BREWSTER (Guyana), again expressing regret for the shortcomings of Guyana's presentation, thanked Mrs. Bonoan-Dandan for her very useful comments, which he would be conveying verbatim to his Government. He expressed appreciation for the Committee's frank criticisms and practical suggestions and he assured the Committee of his Government's good will.

14. Mr. Brewster (Guyana) withdrew.

15. The CHAIRPERSON observed that in relation to the report of Guyana the Committee had been more flexible than was the norm. He believed, however, that in such an unsatisfactory situation the course adopted was the best one possible.

16. Mr. TEXIER suggested that the Committee should reflect on the reasons cited by the delegation of Guyana for its inability to provide satisfactory answers. The Committee should perhaps make it a rule to give more preparatory help to developing countries.

Review of the implementation of the International Covenant on Economic, Social and Cultural Rights: Central African Republic

17. The CHAIRPERSON recalled that, if a State Party had not fulfilled its reporting obligations under articles 16 and 17 of the Covenant, the Committee could proceed to review the status of implementation of the Covenant in that country without a report, basing its observations on a variety of materials from both intergovernmental and non-governmental sources. The purpose of that procedure was to ensure that States parties which did not submit reports were nevertheless subjected to the same degree of scrutiny as those which did so, and to reinforce the point that ratification of the Covenant brought with it a number of responsibilities. The Central African Republic had not submitted a single report, despite being a State Party since 1981. Draft concluding observations regarding its progress in implementing the Covenant had been prepared. However, he proposed that their consideration be postponed until that text was available in all the working languages.

18. It was so decided.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5) (continued)

Draft General Comment (HR/CESCR/NONE/1996/5) (continued)

Paragraph 15

19. Mr. ADEKUOYE asked whether squatters who had taken possession of property, despite repeated warnings against doing so, were entitled to compensation when they were evicted.

20. The CHAIRPERSON said that there was an obligation not to destroy unnecessarily property belonging to persons being evicted. If such persons patently had no alternative means of obtaining shelter, appropriate minimum measures to provide accommodation should accompany the act of eviction. The burden of compensation for damage to property was imposed on the State, rather than on the persons whose property had been occupied.

21. Mr. TEXIER said that the principle of compensation for damage to the property of persons must be reiterated. Nevertheless, the matter was one for States parties to deal with on a case-by-case basis.

22. Mr. PILLAY said that even if persons were forced out of an illegal occupancy, adequate compensation was required for any damage caused to real or personal property during the course of the ouster.

23. The CHAIRPERSON agreed with Mr. Texier that the matter should be left to domestic legislation, but the principle of compensation should be enunciated in the general comment.

Paragraph 16

24. Mr. MARCHAN ROMERO did not see any need to specify, in the second line of the paragraph, the link between evictions and the resulting non-enjoyment of the right to adequate housing. He believed that all evictions led to deprivation of adequate housing.

25. The CHAIRPERSON said that there were persons who would have resources to find adequate housing upon eviction. In such cases there would not be an automatic obligation on the Government to provide alternative shelter.

26. Mr. RATTRAY expressed concern that the last sentence would restrict the ability of the courts to decide in favour of an eviction simply because an eviction order would have the consequence of making a certain number of people homeless. He believed it would be preferable for the paragraph to begin by asserting the independent right to adequate housing, regardless of the circumstances of eviction.

27. Mr. PILLAY said that, in his interpretation of paragraph 16, the obligation lay, not on the courts but on States parties, to ensure that no person was rendered homeless or exposed to subsequent violations of their human rights as a result of an eviction.

28. Mr. ADEKUOYE observed that it was not always practical or possible for States parties to provide alternative accommodation, particularly when the Government concerned had little control over population flows.

29. The CHAIRPERSON said that opponents of the right to housing tended not to regard with sufficient flexibility any such concept. Governments could not abandon their responsibility to provide alternative accommodation simply because the person evicted had broken the law. As human beings, those persons were entitled to shelter, however modest.

30. Mr. WIMER said it was important for the general comment to take into account the situation in countries where powers were distributed between the executive and the judiciary. The paragraph should be redrafted in such a way as to encompass all cases and should call on Governments to ensure that evictions were carried out in a humane manner, regardless of which branch of government held responsibility for the decision.

31. Mr. SADI said that he supported the views expressed by the previous speakers. He had some doubts about the statement in the last sentence that "No person should be left homeless". In absolute terms, that would include persons capable of finding housing. He asked for confirmation that the intention of the general comment was to assist destitute persons who were in urgent need of accommodation and had no alternative whatsoever.

32. Mr. TEXIER said that, because of the many different factors involved, the text should deal with the issue at a general level. In the past some legal experts had given grotesque interpretations to article 11 of the Covenant in order to deny the right to housing. At the domestic level, law enforcers should deal with cases of squatting on an individual basis, seeking always to reflect the spirit of the principles expressed in the general comment.

33. Mr. RATTRAY said that the present wording of paragraph 16 suggested that the persons concerned were being deprived of enjoyment of the right to adequate housing because of eviction. It was often the case that those persons had not previously had adequate housing. Furthermore, the authorities were obliged to provide alternatives which met certain standards, but if those alternatives were of a makeshift nature, they might not conform with the required standards under the Committee's General Comment No. 4. He hoped that the text of the paragraph under discussion could be redrafted to assert the right to housing independently of evictions.

34. The CHAIRPERSON said that the right to housing was always subject to progressive realization and available resources. The Committee might establish guidelines for the interpretation of what was "adequate", but it could not always expect Governments to meet specified standards, as they might lack the necessary resources. Such instances did not constitute violations of General Comment No. 4.

35. Mr. ADEKUOYE supported Mr. Rattray's remarks. He suggested that it would not be appropriate to introduce criteria defining adequate housing, in view of the circumstances existing in some developing countries.

36. Mr. PILLAY said that the last sentence could certainly be redrafted but, contrary to the view of some members of the Committee, he believed there was no question of interference by the executive in the work of the judiciary. Even where a court had ruled that an illegal occupier of land should be ejected, the Government would respect the court's judgements but would then come under an obligation to find alternative accommodation for persons rendered homeless by an eviction.

Paragraph 17

37. Mr. TEXIER said that the French version of the paragraph did not make it clear whether basic procedural protections and remedies should be available to occupiers or owners of occupied property. The latter category should also be taken into consideration, since privately-owned land was as likely to be occupied as State-owned property. He offered the example of invasions of land in Latin America where shanty towns had developed, some even connected to the municipal electricity and water supply, but without the occupiers possessing deeds for the homes they had built. The matter of providing deeds was more readily resolved in the case of State-owned property than in that of privately-owned land.

38. Mr. SADI said that the expression "legal protection" would be preferable to "procedural protection". He also proposed the addition of the phrase "prior to their eviction" at the end of the first sentence. The reference to an assumption of illegality in the first sentence was inappropriate. The basic premise should be reversed, an occupation being assumed to be legal until proven otherwise. Taking into account Mr. Texier's comments, he suggested that the first sentence should read: "An occupant of housing or land shall be assumed to be a legal occupant until proven otherwise. In the event that this legality is questioned in a court of law, the person(s) involved should be afforded full legal protection and remedies". For reasons of consistency, the word "demonstrate" in the third line of the paragraph should be replaced by "substantiate", and "where appropriate" in the fifth line should be replaced by "where necessary".

39. Mr. PILLAY recognized that entitlement to legal aid existed for both civil and criminal cases. The paragraph might be redrafted to state that "An occupier of land or a house is presumed to be a legal occupier. If it is shown that he is an illegal occupier, then he must be entitled to legal protection and remedies affordable in law".

40. Mr. ADEKUOYE said that it could be assumed that any person subjected to forcible ejection had previously been shown by due process to be an illegal occupier. Consequently, the last sentence of paragraph 17 relating to protection should be transferred to paragraph 14 or, alternatively, the entire paragraph should follow immediately after paragraph 14.

41. The CHAIRPERSON agreed that since, in paragraph 17, the legality or otherwise of occupation had not yet been established, the content of the paragraph should be placed earlier in the draft, although not in paragraph 14, which dealt with situations of demonstrated illegality.

42. Mr. CEVILLE said that the paragraph should be refocused on procedural protection of the occupier, regardless of whether the occupation was assumed to be legal or illegal.

43. Mr. CEAUSU suggested the following wording for the second sentence: "Apart from the need to demonstrate the illegality of the occupation, the right to procedural fairness and due process which international human rights law guarantees to all individuals must also be respected".

44. Mr. RATTRAY suggested that, since the primary concern was protection of human rights, and not the matter of legality or illegality of occupation, the first and second sentences might be redrafted to read: "It should be noted that basic procedural protections and remedies against forced eviction must be fully available to persons whose occupation of land or housing is challenged.". That should be followed by a sentence reading: "The right to procedural fairness and due process which international human rights law guarantees to all individuals must be observed in these circumstances." Such redrafting would situate the issue within the framework of procedural fairness and due process, which was indeed related to the substance of paragraph 14.

45. Mrs. JIMENEZ BUTRAGUEÑO said that she agreed with Mr. Texier that the interests of property owners should also be addressed.

46. Mr. TEXIER said he shared the view that value judgements regarding the legality or otherwise of occupation were not appropriate.

Paragraph 18

47. Mr. MARCHAN ROMERO, supported by Mr. SADI, considered that the gravity of the issue dealt with in the paragraph merited more forceful wording. The Committee should condemn the practices referred to, which were totally contrary to the spirit and the letter of the Covenant.

48. Mr. SADI drew attention to the ambiguity of the first sentence which implied that international agencies had instigated forced evictions.

49. The CHAIRPERSON concurred, but said that the paragraph was indeed directed against large projects in which the funding and support of international agencies was vital, although they did not themselves effect the evictions.

Paragraphs 19-22

50. Mr. MARCHAN ROMERO said that the excessively restrictive reference to the Olympic Games in paragraph 21 might be expanded to refer to sporting events in general.

51. Mr. WIMER and Mrs. JIMENEZ BUTRAGUEÑO drew attention to several changes that were needed in the Spanish version of the draft, which would require a general revision.

52. The CHAIRPERSON undertook to ensure that the correct Spanish terminology was employed in a revised Spanish version. He thanked Mr. PILLAY for agreeing to undertake the task of redrafting the General Comment. In response to a comment by Mrs. JIMENEZ BUTRAGUEÑO, he suggested that it would be premature to discuss the draft General Comment with the press.

Plan of action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights

53. The CHAIRPERSON, introducing the Plan of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural

Rights, drawn up pursuant to the Committee's request at its fifteenth session, said that the document highlighted the need to provide additional expert assistance for the Committee. Support was required in particular for the preliminary analysis of reports by States parties, since, while non-governmental organizations and human rights monitoring groups published numerous reports on civil and political rights, they produced far less information concerning economic, social and cultural rights upon which the Committee could draw. It was therefore proposed to appoint three staff members to undertake that task. In addition, the Committee wished to enhance its cooperation with the specialized agencies and to organize workshops with a view to assisting States parties with reporting and follow-up. It was hoped that the additional funding required would be raised through voluntary contributions to the United Nations Human Rights Programme. In his view, it would also be useful to employ a consultant to work individually with States parties on reporting and follow-up, with funding being provided by reallocating resources currently spent on the holding of regional meetings. The plan of action, which had been noted by the Commission on Human Rights, had been forwarded to the High Commissioner for action, and would be included in the Committee's annual report.

ELECTION OF OFFICERS (agenda item 2) (continued)

54. Mr. Rattray was elected Vice-Chairperson by acclamation.

The meeting rose at 5.40 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 May 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued)

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GE.97-16341 (E)

The meeting was called to order at 10.10 a.m.

Solemn declaration by new members

1. In accordance with rule 13 of the rules of procedure of the Committee, Mr. Antanovich and Mr. Riedel solemnly undertook to discharge their duties as members of the Committee on Economic, Social and Cultural Rights impartially and conscientiously.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5) (continued)

Sending of a mission to the Dominican Republic

2. The CHAIRPERSON asked the Committee whether it wished to accept the official invitation of the Dominican Government and send a mission to the Dominican Republic. If so, it would be possible to follow the example of the mission to Panama, which had been made up of two persons and had been given restricted terms of reference. He asked the members of the Committee whether the terms of reference of the experts should deal only with the cases of large-scale evictions referred to in Economic and Social Council decisions 1992/261 and 1993/295 or whether they should be broadened to include certain questions of concern addressed in the Committee's preliminary observations. In his view, although the terms of reference of the mission should not be too general, it would not be realistic to confine them to the large-scale evictions that had taken place six or seven years previously at the site of the monument built to commemorate the discovery of America. Should the terms of reference of the mission be defined in the reply to be addressed to the Dominican Government and should the Committee limit itself to preliminary observations and await the results of the mission before formulating concluding observations?

3. Replying to Mr. Grissa, he said that no specific information was available on the current situation of persons who had been the victims of large-scale evictions and he was not aware of any new cases. Even if the members of the mission focused only on forced evictions and housing problems, it would be difficult for them not to touch on related issues.

4. Mr. SA'DI said that, in order to ensure the mission's cost-effectiveness and produce a clearer and more coherent picture of the situation of economic, social and cultural rights, it would be preferable to broaden the terms of reference of the experts to include questions relating to evictions. He also recommended that the mission's programme of action should be carefully defined.

5. Mr. TEXIER said that the Committee should accept the invitation of the Dominican Government in order to establish closer cooperation with it. Drawing upon the conclusions of the successful mission to Panama, he agreed with the Chairperson that the terms of reference should not be too broad because, in the context of a short mission, it would not be possible to consider the implementation of the Covenant in all areas. In his view, the terms of reference should not be restricted to the simple question of evictions either, but should take account of the Committee's observations and

recommendations, above all with regard to the question of discrimination against Haitians and their status in the Dominican Republic. Lastly, he believed that the Committee should inform the Dominican Government of the exact terms of reference of the experts.

6. Mr. WIMER said that he agreed with the Chairperson and Mr. Texier on the terms of reference of the mission. The mission to Panama had been successful not only because its objectives had been clearly defined, but also because it had made it possible to resume the political dialogue between the Government and public opinion, including non-governmental human rights organizations.

7. Mr. MARCHAN ROMERO said that, in his view, the Committee should take note of the fact that the Government of the Dominican Republic agreed to invite a mission to consider the question of forced evictions on site. The mission's terms of reference, which must focus on that subject alone, should also be specified. Once on the spot, the members of the mission might also hold a constructive dialogue on other subjects, but only as a secondary consideration. The Committee's conclusions should remain preliminary until it had received other material provided by the mission.

8. Mr. KOUZNETSOV said he agreed that the terms of reference of the group to be sent to the Dominican Republic should focus solely on forced evictions in the past and at present. It would be useful for the two experts travelling to the scene to be well-informed on the question and for information to be obtained from HABITAT on current developments in that area.

9. Mr. SA'DI said that, for practical and financial reasons, he was in favour of sending one person, and not two, to the Dominican Republic and opposed to confining the terms of reference of the mission to the sole question of forced evictions.

10. Mr. RATTRAY said that the mission should inspire confidence so that its members could have access not only to official, but also to other bodies which might provide reliable and precise information. Its terms of reference should include the right to housing in the past and at present and should not relate to more than two or, at most, three subjects. Moreover, the Dominican Republic should be informed in advance of the content of the terms of reference.

11. The CHAIRPERSON said that the letter of 23 April 1997 received from the Dominican Republic contained an open invitation to consider all questions relating to the second periodic report.

12. Mr. WIMER said that it was important to clarify the terms of reference of the mission, which was not meant to be an inspection mission. The Committee had been invited by the Government of the Dominican Republic to send a special mission to offer technical advice on a specific point. On the basis of past experience, he said that, for practical reasons, two persons should be sent rather than one.

13. The CHAIRPERSON said that the file on the mission would be made available to the members of the Committee.

14. Mrs. BONOAN-DANDAN said she agreed that it would be impossible for one person alone to do an effective job, even if the mission's terms of reference were limited to forced evictions. And if the Committee wished to broaden the terms of reference, more than two persons would have to be sent.

15. The CHAIRMAN said that the decision of the Economic and Social Council allowed for a maximum of two persons accompanied by a staff member of the Centre for Human Rights.

16. Mr. ADEKUOYE said that the mission's main concern should be housing, with the emphasis on forced evictions. Once in the Dominican Republic, the mission would also be able to consider other aspects of the question, which was a very big one.

17. Mr. SA'DI said that, if the Committee decided to restrict the mission's terms of reference to evictions alone, it would be enough to send one person, as many United Nations bodies did. If the terms of reference were broader, two persons would have to be sent.

18. Mr. AHMED said that the mission's terms of reference could not be limited to evictions, especially as the invitation of the Dominican Government did not mention any particular subject. The mission would be able to consider any matter which the Committee had raised in its preliminary observations. The mission should take up in particular the question of the expulsion to Haiti of the black population of Haitian origin and perhaps the situation of Haitian women employed on sugar cane plantations who suffered discrimination, including in matters of housing. When the head of family had just disappeared, for whatever reason, such women could not continue to occupy their dwellings, since they could not themselves obtain the required "cedula" (identity card).

19. Mr. PILLAY said that, since the invitation was an open one, the mission should concern itself with all the issues raised in the Committee's preliminary observations. If the mission's only purpose was to investigate evictions, it would have to examine not only the topic itself, but also all the relevant legal and judicial procedures, including the question of expulsions of blacks of Haitian origin, to which reference had been made.

20. Mr. ANTANOVICH said there seemed to be a consensus in the Committee that the Dominican Republic's invitation should be accepted. A one-person mission seemed impossible. At least two experts should be sent to the Dominican Republic to study, of course, the question of past evictions, but they should investigate, in addition and in particular, the persistence of that practice in the present in order to prevent any further cases. The mission's mandate should be neither too restrictive nor too open. The Committee should adopt its final observations when it was in possession of the new information provided by the mission.

21. Mr. WIMER said that the members of the Committee needed to know the exact terms of the letter of invitation before taking a decision on the question.

22. The CHAIRPERSON said that no final decision would be taken until the members of the Committee had had an opportunity to examine the file.

23. Mr. RIEDEL said that the purpose of the mission should be to investigate evictions and the housing problem, but that, once in the Dominican Republic and depending on the circumstances, other matters raised in the preliminary observations should also be examined.

24. The CHAIRPERSON, in summing up the discussion, said that the Committee accepted the Dominican Republic's invitation to send a mission, that the mission to Panama constituted an important precedent from which lessons must be drawn, that the mission should consist of two persons, as the decision of the Economic and Social Council allowed, and that its terms of reference should not be limited to the question of evictions. He personally thought that it was in the Committee's interest to state the mission's terms of reference in very specific terms. In view of the preliminary observations made by the Committee, the right to housing should be the mission's main concern, it being understood that, once on the spot, the members of the mission would be able, if necessary, to raise other questions. From the practical standpoint, it was also necessary to prepare the mission with the greatest care in order to ensure its success. The observations must remain preliminary until the mission's findings were to hand.

Optional protocol

25. The CHAIRPERSON recalled that comments and sometimes criticism had been offered about the draft optional protocol at the session of the Commission on Human Rights, mostly by non-governmental organizations, but also by a few countries. Belarus had supported the drafting and adoption of such a text, which would strengthen economic, social and cultural rights and establish the necessary balance between those rights and other groups of rights. Romania had strongly supported the draft optional protocol as a component of the human rights monitoring system. The Russian Federation had said that it was convinced that the international human rights instruments would be made more effective by the adoption of the protocol, which would introduce a procedure for the consideration of communications. Few countries had stated their views on the question, for Governments would be invited to submit their comments in writing for the Commission's next session.

26. Mr. TEXIER said that it was a pity that France did not show stronger support for the draft protocol. In the circumstances, it must be asked whether the members of the Committee could do something to alter the attitude of the Western countries towards the draft text, whether further support could be found from other groups of countries and whether the Committee could play a role in speeding up the drafting and adoption of the protocol. Had its content been criticized? Had that question been raised during the Commission's session? What was the timetable for the drafting and adoption of the instrument?

27. The CHAIRPERSON said that the criticisms made had come mainly from non-governmental organizations. The main question was whether the Commission would receive a sufficient number of positive replies from Governments to justify the appointment of a working group to examine the draft protocol and

propose a final draft. If not, the drafting and adoption of such an instrument could become bogged down. What could be done? Governments must be persuaded that the most important question they faced was not whether they could ratify the protocol, but whether the system as a whole would benefit from having a mechanism for the consideration of complaints in the case of economic rights. The adoption of a protocol to the Covenant on Economic, Social and Cultural Rights would help in introducing a global system for the protection of human rights.

28. Mr. TEXIER said that it would be interesting if each member of the Committee could, as he himself had done, seek the opinion of the ministries concerned as to the feasibility of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights. His own experience had shown that the Ministry of Justice was the least forthcoming - although it did recognize that some of the rights set forth in the Covenant and, in particular, the right to housing and the right to work were already fully subject to the law, but that, in general, the French Government was not opposed to such a draft being prepared. It would be advisable for such an initiative to be undertaken in all countries, with the assistance of NGOs, to explain to Governments what an optional protocol meant and entailed.

Publicity and image of the Committee

29. The CHAIRPERSON said that one of the only ways available to the Committee for making its work known was the information sheet which was published by the Centre for Human Rights and which was useful, but somewhat austere, whereas information on the operation and activities of all the other committees was also disseminated by other bodies, such as NGOs. For instance, the Committee on the Elimination of Racial Discrimination had the support of the Anti-Racism Information Service. He urged members to give some thought to the steps to be taken with a view to adopting such a system in the Committee on Economic, Social and Cultural Rights. Furthermore, the fact that the press devoted little space to the work of bodies such as the Committee was apparently due to the fact that they were of little interest. If the Committee wished to attract the attention of Governments it might therefore be useful to consider a reformulation of the position in an endeavour to obtain press coverage. It might be advisable to give some thought, before the end of the session, to the way in which the next few days of the general discussion could be used in an attempt to hit the headlines.

30. Mr. SA'DI said that, in his view, if the Committee really wanted to improve its image, it should itself take the initiative of providing the local and international press with information on matters it deemed to be of major interest. He would also suggest that the Committee should meet alternately in Geneva and New York or another city, as that would enable it to throw more light on its work and would enhance the dissemination of information on its activities.

31. Mr. TEXIER said that only events were covered by the press and, in his view, the Committee's meetings were not an event. He had noted, however, that the appearance of a State party before the Committee, when its report was considered, had sometimes made the headlines in the press of that State because the Government or civil society of the country in question had made an

event of it. The Committee should try to interest specialists, such as jurists and NGOs, in its work by sending them publications that were more attractive and less difficult to read than its documents.

32. Mrs. BONOAN-DANDAN said she was struck by the fact that the attitude of the press to the Committee's work reflected society's attitude to economic, social and cultural rights. When those rights were mentioned, there was talk of principles and of objectives that countries were trying to achieve, but rarely of rights as such. Although the nature of the Committee's work was sometimes considered to be a little austere, it nonetheless had the reputation of being innovative. It would be desirable to strengthen the Committee's collaboration with NGOs to make economiic, social and cultural rights and the Committee's activities better known.

33. Mr. MARCHAN ROMERO, agreeing, said that, in his view, it was not for the Committee to pay court to the press; rather, it must improve its machinery for making the Covenant better known. Ironically, States parties themselves knew nothing about the Committee, only bothering about it when they had a report to draw up. The Committee should exploit the positive relations it had established with NGOs to make the Covenant better known both by civil society and by Governments. For example, he had himself been invited, through an NGO, to address the Ecuadorian Congress, an event which had received wide press coverage. He proposed that, in view of financial difficulties, an expert should be recruited to suggest areas of action likely to improve the lacklustre image that was prejudicial to the Committee.

34. Mrs. JIMENEZ BUTRAGUEÑO said that the Committee dealt with rights about which the public did not really care. The press, though important, was not everything. The Committee should find a way of getting its message across, for instance, by reporting on the missions it had carried out to Hong Kong and Panama and by highlighting the successes it had achieved, such as the story about the Chinese child who had found his parents again. That was the kind of news that would be of interest to the press.

35. Mr. CEAUSU said that, although he found the remarks by the other members of the Committee, particularly those made by Mr. Marchán Romero, very interesting, he thought that the emphasis should be on the concluding observations; care must be taken to ensure that they ended up on the desk of the competent minister. He proposed that, at least where the concluding observations were concerned, the Committee should change its procedure. Given that it was for the Economic and Social Council to monitor the implementation of the Covenant, its President might be entrusted with the task of addressing letters to the Ministries of Foreign Affairs of each of the various countries, setting out the Committee's relevant concluding observations. Another possibility would be to make the concluding observations better known within the United Nations system, either by publishing a separate document annually or by including them in the annual report of the Economic and Social Council. On the question of holding the Committee's sessions alternately in Geneva and New York, he thought that there were already too many meetings at the latter venue, and said he would prefer the sessions to be held at the headquarters of the United Nations regional commissions (Addis Ababa, Santiago, and Bangkok,

for example), where only the reports on the countries of the respective region would be considered. However, he was aware of the financial implications; hence his pessimism with regard to the chances of his proposal being accepted.

36. Mr. ANTANOVICH, pointing out that inadequate media coverage was not invariably a bad thing, said that it was important to find a way of extracting from the mass of available data such information as was likely to present the Committee's activities in a favourable light. He encouraged the members of the Committee to give interviews and write articles on the Committee's work and proposed that the US$ 10,000 allocated by the Economic and Social Council should be used specifically to ensure that information reached those primarily concerned, namely, Governments and the public. The idea of holding the Committee's sessions alternately in Geneva and New York was a good one, for in that way the Committee would be able to make its activities known in two major centres of the United Nations system. However, financial implications and logistical difficulties stood in the way of holding the Committee's sessions at the headquarters of the United Nations regional commissions. He was in favour of the preparation of special reports on ways of making the Committee's work and recommendations as widely known as possible.

37. Mr. WIMER said that he welcomed the pertinence of those remarks, but considered that such an analysis overlooked one essential aspect of the matter, namely, the fact that the Committee's concluding observations lacked bite. The Committee wallowed in ambiguity, refusing to state clearly and categorically whether States had or had not complied with their obligations. Such lacklustre observations could be of no interest to the press and the Committee's image suffered accordingly.

38. Mr. SA'DI said that information campaigns were important because they enabled economic, social and cultural rights to be promoted. In that connection, he would prefer to see awareness-raising efforts directed at the public rather than at Governments, in view of the pressure that the former could exert on the latter. Judging from his own experience of journalism, he believed that it was up to the Committee to seek out journalists, not vice versa. The Committee could write articles on its activities and make them available to the press. He himself had used that approach in Jordan, with positive results. Particularly in the developing countries, a growing awareness of economic, social and cultural rights was discernible, more so than was the case with civil and political rights, for example.

39. Mrs. JIMENEZ BUTRAGUEÑO said that there were two issues: how to make the Committee's voice heard by Governments and how to reach the general public. Those two goals were different, but not incompatible.

40. Mr. ADEKUOYE pointed out that non-governmental organizations (NGOs) had often acted as accurate sources of information, thereby enabling the Committee to make up for the inadequacy of data and to carry out more thorough studies. He proposed that Governments should be requested to involve NGOs in the drafting of their reports, even if there was every reason to believe that few Governments would actually be prepared to do so. The Committee suffered not from a poor image, but rather from the fact that its activities were barely known to Governments and, in particular, to the man in the street. He

proposed setting up a small working group, whose members would have experience in communication matters, to advise the Committee on steps to be taken to rectify that situation.

41. Mrs. BONOAN-DANDAN said that the Committee already had a tool that would enable it immediately to undertake activities in the area of information and publicity, namely paragraph 4 of the "consolidated guidelines for the initial part of the reports of States parties" (HRI/1991/1), in which States were requested, inter alia, to indicate whether any special efforts had been made to promote awareness among the public and the relevant authorities of the rights contained in the Covenant and whether the contents of the reports were the subject of public debate. The Committee must now request concrete evidence, rather than continuing to content itself with States' declarations on the subject.

42. The CHAIRPERSON, summing up the discussion, proposed that the Committee should draft one page of general observations on the need to make the Covenant and the Committee's work known at the national level. The idea of holding its sessions alternately in New York and in Geneva or elsewhere was worth exploring, although the financial implications might constitute an obstacle to its implementation. NGOs with substantial resources might be asked to prepare a guide to the Committee's work. With regard to publicity, the Committee perhaps underestimated the potential of questions such as forced expulsions. He therefore proposed that the secretariat should gather together data from other sources and incorporate them in a press release to be annexed to the Committee's general observations. He found the idea put forward by Mr. Sa'di a good one and suggested that the Information Service of the United Nations Office at Geneva should be asked to draw up a document exploring the possibilities open to the Committee, including the use of new information technologies. He agreed with Mr. Adekuoye on the need to set up a small working group, which would, as Mr. Wimer had stressed, have to draw up concise and interesting articles that could readily be disseminated through the press.

The meeting rose at 1.05 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 2 May 1997, at 10 a.m.

Chairman: Mr. ALSTON

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(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of Zimbabwe

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GE.97-16358 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7)

Initial report of Zimbabwe (E/1990/5/Add.28; HRI/CORE.1/Add.55; E/C.12/Q/ZIM.1)

1. At the invitation of the CHAIRPERSON, Mr. Chifamba, Mr. Zavazava and Mr. Chikorowondo (Zimbabwe) took places at the Committee table.

2. Mr. CHIFAMBA (Zimbabwe) said that immense progress had been made in the implementation of the provisions of the Covenant. The number of primary and secondary educational establishments had increased considerably, one of the results being a dramatic rise in enrolment and hence literacy levels. Numerous centres of higher education had opened. The number of universities had increased from one in 1980 to five. More schools were being built to ensure that no child lived more than 6 km from a school.

3. In the area of health, more hospitals and clinics were being built and health personnel trained. Measures were being taken to ensure that all social categories had access to health care and shelter. In the areas of labour and the rights of women, children and minorities, new legislation was being enunciated to ensure the full enjoyment of rights by all. As a result of the globalization of the economy, Zimbabwe had had to make changes in its economic system, leading to the formulation of the Economic Structural Adjustment Programme in 1990. Its effects had been beneficial on the whole, particularly for agriculture, where output had increased, and for prices, which had risen. With government assistance, the country's economic potential had already made it possible to diversify local production, and the future looked promising.

4. However, Zimbabwe had encountered a number of difficulties which impeded the realization of economic, social and cultural rights. The structural adjustment programme had had adverse medium-term impacts in a number of sectors, obliging some companies to close and hence to dismiss staff. Those who lost their jobs were provided with assistance for retraining and often found jobs in the informal sector of the economy, hence a significant increase in the number of persons in that sector. Those who did not succeed in resuming work could always benefit from State assistance through the Social Dimensions Fund.

5. In the spheres of health and education, recovery measures had had to be taken with the result that, while primary education and health care were still provided in rural areas, where the majority of the people lived, in urban areas the people were being asked for a modest contribution. The few families with insufficient resources to cope with that situation were provided with assistance.

6. The severe drought experienced by the country in 1991-1992 was another setback that had considerably affected the implementation of the provisions of the Covenant. It had set in at the beginning of the implementation of the

structural adjustment programme, meaning that the Government had had to divert some of the funds allocated for that programme to import food. Free food and seeds were provided to the people. The drought had also had distorted effects on industrial output, in so far as industrial water and electricity needs had not been met. The State had therefore had to contend with increased social welfare needs and to draw extensively on its limited resources, negatively affecting programmes for the provision of shelter and rural electrification.

7. The structural adjustment programme was now entering its second stage, known as ZIMPREST, the Zimbabwe Programme for Economic and Social Transformation. It was a short-term strategy designed to expand the economy, create jobs by attracting investment, enhance the standard of living and reduce poverty. Applied to the implementation of the long-term objectives of the Government's Vision 2020 Programme, it sought to put the country on a sustainable growth path. In that way Zimbabwe hoped to overcome poverty and unemployment and secure the realization of economic, social and cultural rights at the national level by the turn of the century.

8. In order to help change attitudes - especially with regard to education, gender fairness and economic empowerment - the Government had launched educational programmes to promote awareness of social and cultural rights. Various mechanisms had also been created to protect the cultural heritage, artistic production, etc. No cultural category was disadvantaged.

9. While the report before the Committee was exhaustive in many respects, it did not sufficiently outline the historical background pertinent to the birth of independent Zimbabwe. The country's recent colonial past (1890-1979) accounted for many shortcomings in the realization of economic, social and cultural rights observed during the current period. Everything had been focused on the political, economic, social and cultural needs and interests of the settlers who reigned supreme, and nothing had ever been done for the country's black majority in the field of education, health, employment and socio-cultural development except where the needs of the white minority in power called for some blacks to receive training of use in commerce and industry. As a result, the Government of Zimbabwe had inherited a totally inappropriate socio-cultural system and economic infrastructure which could not cope with the needs of the people. The entire country had to be rebuilt. The Government had had no choice but to utilize the scarce resources available to pursue that task, which it was determined to complete. The Committee's observations in its sphere of competence would help it to continue the efforts made to date.

10. The CHAIRPERSON said that the members of the Committee would find answers to questions 1 to 9 on the list of issues in the State party's written replies (pp. 12-14) in the file, in English, without a symbol.

11. Mrs. BONOAN-DANDAN asked how many of the children attending primary school whose parents were unable to pay the contribution referred to by the representative of Zimbabwe needed assistance. On the subject of information and publicity relating to the Covenant, she noted that no non-governmental organizations had participated in the preparation of the report, although

certain NGOs were very active in Zimbabwe. What was the explanation? She also wished to know more about the information campaigns on economic, social and cultural rights.

12. Mr. SADI asked what was the status of the Covenant in Zimbabwe. It seemed that the Covenant could not be directly invoked before the courts, and therefore that the rights set out in it could not be the subject of an appeal. Was that the case? To what extent were such rights taken into account when the country's economic policy was formulated, bearing in mind that there was still a gap between the well-off and the rest?

13. Mr. TEXIER asked whether social welfare safety nets had been introduced in Zimbabwe to counter the adverse effects of the structural adjustment plan on the most vulnerable social groups. That plan, implemented in particular in the form of privatizations, was indeed useful in macroeconomic terms, but it had adverse effects in the sphere of education, access to health and nutrition for the poorest groups. It also seemed that, under the Constitution of Zimbabwe, only civil and political rights fell under the purview of the courts. In most countries, a number of economic, social and cultural rights - such as trade union rights and the right to housing - could be the subject of appeals in the courts. What was the situation in Zimbabwe in that respect? Lastly, what publicity did Zimbabwe plan to give to the concluding observations the Committee would adopt on the initial report?

14. Mr. ADEKUOYE wished to know what measures the Government of Zimbabwe had taken to make the provisions of the Covenant known in official and other circles and to raise levels of schooling among women to enable them to make a greater contribution to national development. He also sought further information on initiatives that had been taken at the regional level to help Zimbabwe to address its problems of inflation.

15. Mr. THAPALIA sought information on the functions of the Supreme Court of Zimbabwe and its place in the country's legal system. He also asked whether anyone in Zimbabwe could invoke the provisions of the Covenant before the courts without discrimination. Referring to article 2 of the Constitution, he wondered why discrimination on grounds of sex was not mentioned.

16. Mr. GRISSA sought further information on the impact of the recent settlement of internal conflicts and economic recovery in the neighbouring countries on Zimbabwe's economic development and the Government's ability to promote the economic, social and cultural rights of citizens.

17. Mr. RATTRAY asked whether the rights set out in the Covenant were genuinely regarded as such both by the Government and by the population, bearing in mind Zimbabwe's colonial past. He understood that the Covenant had to be incorporated into domestic legislation in order to be applied, as its provisions were not applicable directly. On the other hand, the Constitution guaranteed respect for civil and political rights before the courts. However, he noted that certain rights such as the right to work, the right to form trade unions and the right to strike were covered in legislation. He asked to what extent any breach of those rights could be a matter for prosecution in the courts.

18. Mr. CEAUSU commended the report for its quality but regretted the lack of statistics in certain areas. As the reply to question No. 7 indicated that the Government of Zimbabwe had taken no measures to inform the public about the Covenant, he wished to know whether the text of the Covenant had been published in the Zimbabwe Government Gazette, as was customary in other countries.

19. Mrs. JIMENEZ BUTRAGUEÑO wished to have more detailed information on the role and nature of NGOs in Zimbabwe. Did associations exist that represented women, the elderly, minorities, and so on? Cooperation on the part of NGOs could be very useful in a country facing problems of structural adjustment like Zimbabwe.

20. Mr. CHIFAMBA (Zimbabwe), replying to Mrs. Bonoan-Dandan, said that because of the financial constraints imposed by the Economic Structural Adjustment Programme, a contribution was requested for the education of primary school children, but only in urban areas, and low-income families received assistance from the Social Dimensions Fund. In the rural areas, education remained free. Nevertheless, economic growth in developing countries did not depend only on the steps taken by the Governments of those States, but also on many other outside factors. In addition, the Bretton Woods institutions, under their development programmes, granted certain types of funding only on very strict terms which produced adverse social effects in the recipient countries.

21. Concerning participation by NGOs in the preparation of the report and the search for solutions to the problems generated by the structural adjustment programme, he said that NGOs were not directly represented and that it was governmental machinery which oversaw progress by Zimbabwe in discharging its obligations in the field of human rights. On the other hand, NGOs provided assistance to vulnerable groups among the population. The Government urged such organizations to evaluate the needs of the people before launching any project, so that its results would be lasting ones.

22. He saw no contradiction between the information supplied in the report and that set out in his introductory statement on human rights education; perhaps a question of presentation was involved. The population of Zimbabwe was aware of its economic, social and cultural rights, but was also aware of the fact that the Government was not wholly in a position to guarantee their full realization.

23. In response to Mr. Sadi's question concerning the status of the Covenant, he said that some elements of the Covenant had been taken up in Zimbabwean legislation, but that it was true that it had perhaps not played a fundamental role in the drafting of legislation. However, the legislation would be progressively revised so as to take into account all the provisions of the Covenant. He did not think that the Economic Structural Adjustment Programme fully took account of the rights set out in the Covenant, but the drafting of the programme owed more to the Bretton Woods institutions than the Government.

24. In answer to Mr. Texier's question, he said that provision was made for social welfare measures for victims of the structural adjustment programme.

In addition to the fund for the social aspects of the programme, there were training programmes to help the victims of downsizing to set up their own businesses. However, those arrangements were still inadequate, and Zimbabwe would appreciate assistance from the international community to remedy the situation.

25. The Covenant could be invoked in the courts, but only the sections that had already been incorporated into domestic legislation. In response to Mr. Adekuoye, he said that civil servants and public officials were made aware of the rights set out in the Covenant. For example, under a programme organized by the International Committee of the Red Cross, all Zimbabwean soldiers participating in peacekeeping missions were given training in international humanitarian law and human rights in general.

26. He took note of the Committee's concerns regarding the limited powers of the Ombudsman, and promised to draw the matter to the attention of the appropriate authorities. As to whether regional cooperation had hampered the application of the structural adjustment programme, despite undoubted difficulties, relations with neighbouring countries had enabled Zimbabwe to make the adjustment successfully. For example, the normalization in Mozambique and Angola had enabled Zimbabwean businessmen to set up joint enterprises, stimulating the export sector.

27. In response to Mr. Rattray, he said that the principles set out in the Covenant were effectively recognized rights. They were not only rights and principles, but also ideals for which Zimbabwe had waged its war of liberation. The Government of Zimbabwe intended to apply them, even though it was aware of its limited resources for that purpose. The text of the Covenant had been published in the Government Gazette and had been freely debated in Parliament.

28. Mr. CEVILLE said he understood that the rights set out in the Covenant, which were ideals to which Zimbabwe aspired, had to be incorporated into domestic legislation before being applied, and that there was a relationship between the level of economic development and the application of the Covenant's principles. In that regard, what methods were used to gauge the relationship between national economic growth and the recognition of rights which were universal? In view of the fact that Zimbabwe had acceded to the Covenant without making any reservations, why were the rights set out in it not applied in full? Referring to paragraph 12 of Zimbabwe's initial report, he sought further information on the circumstances in which restrictions on the enjoyment of economic, social and cultural rights were permissible.

29. Mr. ADEKUOYE, returning to the structural adjustment programme, wished to know the amount of the assistance received by Zimbabwe from various sources for the implementation of the programme. On the subject of regional cooperation, he was aware of the difficulties encountered within subregional bodies, but wondered whether the countries of the subregion, at the annual meetings of the Council of Ministers, considered the various aspects of national structural adjustment programmes and measures to be taken to deal better with their impacts.

30. Mrs. JIMENEZ BUTRAGUEÑO, noting that the Covenant took effect only if it was incorporated into domestic legislation, asked which rights had already been included in Zimbabwe's laws and what practical measures had been taken to that end. She also wished to know how the Government coordinated its activities with those of NGOs. Was there a special office handling such coordination?

31. Mr. ANTANOVICH asked for more detail on the legal framework established to protect human rights. What political, economic and social means had Zimbabwe used to incorporate in its domestic legislation the measures of protection set out in the Covenant, so as to address its economic and social problems? What reforms of domestic legislation did Zimbabwe envisage to ensure that most of the provisions of the Covenant could be implemented?

32. Mr. CHIFAMBA (Zimbabwe) acknowledged that, as it had not made any reservations on acceding to the Covenant, his Government should be in a position to apply all of its provisions. The absence of reservations illustrated Zimbabwe's resolve to discharge all the obligations it had entered into under the Covenant. However, owing to the limited resources available, the matter would be dealt with step by step.

33. Responding to a question from Mr. Adekuoye, he said that Zimbabwe had received economic assistance at the start of the application of the structural adjustment programme, enabling it to finance food programmes, but that following budget overruns arising from overspending to combat the drought of 1991-1992, the Bretton Woods institutions had refused to grant additional financing. However, bilateral agreements had been signed with the Nordic countries, the funds obtained being allocated principally for projects involving water supply, sanitation and efforts to combat poverty. On the subject of regional cooperation, the ministers and senior officials of the countries concerned discussed the problems posed by national structural adjustment programmes. He pointed out that those programmes had worked against regional cooperation and integration, in particular as a result of the dollarization of foreign trade and the rise in transport costs they had caused.

34. He said he would indicate when the implementation of each of the articles of the Covenant was considered which economic, social and cultural rights had or had not been incorporated in domestic legislation. Regarding cooperation between the Government and non-governmental organizations (NGOs), such organizations had to register either with the Ministry of Agriculture or with the Ministry of Public Service, Labour and Social Welfare, and supply information on their sources of funding, their concerns and their desired fields of activity. Although NGOs were free to carry out their projects, the authorities were increasingly striving to monitor their activities to ensure that they were in keeping with the Government's development objectives. NGOs were also encouraged to involve the local people in their projects and to report to them on their implementation.

35. In response to Mr. Antanovich, he said that the Government was endeavouring to build a law-drafting capacity, and appealed for international cooperation for that purpose, particularly assistance from United Nations bodies.

36. The CHAIRPERSON expressed the wish that, in the discussion on the implementation of each of the articles of the Covenant, the delegation of Zimbabwe would reply precisely to the questions which had not been taken up in the written replies.

37. Mrs. BONOAN-DANDAN endorsed the views of the Chairperson, expressing regret that the delegation had spoken more of Zimbabwe's serious economic situation and development problems than of human rights issues. She sought information on the situation of people who had fallen victim to the drought and the structural adjustment programme, as well as the measures the Government had taken to help them. The States parties to the Covenant had committed themselves to protecting all citizens, and economic, social and cultural rights were not ideals, but rights.

38. Mr. CHIFAMBA (Zimbabwe) replied that he had striven to place human rights issues in the particular context of Zimbabwe. He was guided by a spirit of cooperation and a desire to advance human rights. He simply wished to point out that economic, social and cultural rights were not only rights, but also ideals, as the Government lacked the means to guarantee them.

39. The CHAIRPERSON said it was difficult to separate human rights from the economic, social and political context. That was why the Committee made an effort to gather general information. However, it needed precise answers to the questions posed in order to decide, in its concluding observations, whether the Government was taking steps to guarantee and promote the rights recognized in the Covenant.

40. Mr. SADI, noting that the governing party held almost all of the seats in Parliament, asked for what reasons the Government had been unable to establish a pluralist democracy, so as to allow the population to exercise its economic, social and cultural rights freely. He also wondered whether the judiciary was truly free and independent, since judges were appointed by the President, in consultation with the Judiciary Service Commission. On the subject of discrimination on grounds of sex, he noted the major legislative measures adopted to guarantee equality between men and women, but expressed concern as to the discriminatory nature of customary law. He wished to know whether women continued to suffer discrimination.

41. Mr. ADEKUOYE inquired into the situation of the population in rural areas vis-à-vis the urban population, particularly where discrimination was concerned. He pointed out that, although the legislation on the rights of the disabled was very generous, the authorities themselves did not respect some of its provisions. Moreover, the Board established in 1992 to protect the interests of the disabled had met only twice before its budget was cut by the Ministry of Public Service, Labour and Social Welfare. Why was that?

42. Mrs. JIMENEZ BUTRAGUEÑO asked for more information on the current situation of women. Did they enjoy the same rights as men in the family, in access to work, credit and housing, and in penal matters?

43. Mr. ANTANOVICH sought clarification on paragraphs 10 and 12 of the report (E/1990/5/Add.28).

44. Mr. ADEKUOYE wished to know whether an inheritance law had been adopted on the basis of the White Paper drawn up by the Government and organizations for the protection of women's rights, and, if so, how far its provisions redressed the discriminatory features of customary law.

45. Mr. THAPALIA asked for more information on the de facto discrimination suffered by women, and asked how far the Government of Zimbabwe was committed to ensuring de facto and de jure equality between men and women in the economic, social and cultural fields (written replies, para. 12). Could badly treated persons receive legal aid in matters of discrimination or inequality?

46. Mr. RIEDEL congratulated the delegation on the quality of the written replies on the implementation of article 2 of the Covenant. However, he wished to have specific information on the anti-discrimination campaigns among the population, and asked whether they would be followed up in order to evaluate their results.

The meeting rose at 1 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 2 May 1997, at 3 p.m.

Chairperson: Mr. CEAUSU
(Vice-Chairperson)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7) (continued)

Initial report of Zimbabwe (continued) (E/1990/5/Add.28; E/C.12/Q/ZIM.1)

1. At the invitation of the Chairperson, Mr. Chifamba, Mr. Zavazava and Mr. Chikorowondo (Zimbabwe) took places at the Committee table.

2. The CHAIRPERSON recalled that the Committee at its 8th meeting, had considered the written responses of Zimbabwe to the list of issues contained in document E/C.12/Q/ZIM.1. A number of points had been raised and he proposed that the Zimbabwean delegation should refer first to those relating to the general legal framework within which human rights were protected and to articles 1 to 4 of the Covenant.

3. Mr. CHIFAMBA (Zimbabwe) said that he would endeavour to answer all the Committee's questions. However, in the absence of the experts who had compiled the report, the delegation would have some difficulty in responding to the more technical points raised.

General legal framework within which human rights are protected

4. Given that judges were appointed by the Executive, some doubt had been raised as to whether they would rule against the Government in cases where citizens invoked their rights before the courts. In fact, the independence of the judiciary was guaranteed in the Constitution and on a number of occasions the Government had been found to be at fault.

Article 1. Right to self-determination

5. The report appeared perhaps to imply that the quest for self-determination had ended with the granting of independence. However, that right was also realized through the holding of elections. Parliamentary and presidential elections took place every four and five years, respectively. Zimbabwe was divided into 150 constituencies, each being represented by one member of Parliament. Currently, only three seats were held by members of opposition parties, a situation which was attributable, not to a lack of democracy, but to poor organization and lack of popular appeal. Elections to ward, district and provincial councils were also held, which ensured that many decisions were taken at the grass roots level. The Government aimed to include members of all the different ethnic groups in the various State structures.

Article 2. Non-discrimination

6. With regard to the rights of disabled persons, the decision by the International Disability Foundation to conduct a pilot study in Zimbabwe of the implementation of the United Nations Standard Minimum Rules on the

Equalization of Opportunities for Persons with Disabilities testified to the progress made by his Government in that area. It had, inter alia, enacted legislation whereby all new public buildings must be accessible to disabled persons, although there was still a problem with older buildings. He did not have sufficient information to respond to the allegation that the National Disability Board, established by the Disabled Persons Act, had met only twice before its funding was cut.

Article 3. Equality of men and women

7. Men and women enjoyed equal rights in every area of life, although he recognized that there was a disparity between women's de jure status and their de facto treatment. That situation was not due to a lack of effort on the part of the Government, which had created a Department of Community Development and Women's Affairs whose responsibilities included organizing campaigns, workshops and seminars aimed at changing perceptions of the role of women in society. Valuable work was also being done by non-governmental organizations in order to increase women's awareness of their rights. Already, there had been perceptible changes in the treatment of women both in the workplace and in the home, particularly in urban areas. It was not correct to imply, as Mr. Adekuoye had done, that Government initiatives failed to reach the population in rural areas. On the contrary, education campaigns were being conducted in the countryside by the Party, which, through its structures in the districts and wards, was able to reach people even at the grass-roots level. However, traditional perceptions of women were more deep-rooted among the rural population, including among women themselves. In many families, for example, while it was the wife who toiled in the fields, it was the husband who controlled the income from the sale of the produce. Although that situation was deplorable, it was difficult for the Government to intervene in family life.

8. Mrs. JIMENEZ BUTRAGUEÑO asked whether women whose rights were violated by their husbands had any possibility of recourse through the courts. The Convention on the Elimination of All Forms of Discrimination against Women, which Zimbabwe had ratified, required that States parties safeguard women's rights through legislation.

9. Mr. CHIFAMBA (Zimbabwe) said that women did have the possibility of such recourse. In the case of inheritance rights, for example, a draft law aimed at ensuring that a man's property would pass to his wife upon his death, rather than to his relatives, as had been the practice under customary law, had recently been approved by the parliament and was awaiting presidential assent. Where adolescent girls were forced into marriage, laws on the age of majority and on rape could be invoked. Efforts were being made to improve legislation on women's rights and to enforce existing laws. Often, however, women were unaware of those legal safeguards, or, as in domestic violence cases, were reluctant to seek the help of the authorities.

Article 4. Limitations on the enjoyment of economic, social and cultural rights

10. As Mr. Antanovich had observed, while the report stated that the Covenant was fully implemented, it also cited instances in which limitations were imposed. Clarification had been sought from the authors, and he would raise the matter with his Government with a view to ensuring that no such inconsistencies occurred in future reports.

Issues relating to specific rights recognized in the Covenant

Article 6. Right to work

11. The CHAIRPERSON noted that no information had been provided in Zimbabwe's written answers concerning the matters raised in questions 14 and 15 of the list of issues.

12. Mr. RIEGEL referring to discriminatory practices in the work place (issue 17), asked what was meant by the independent employment evaluation exercise on the grounds of which the employee cited in the written responses had lost her case; whether the Government had had to deal with complaints of gender discrimination in black-run companies as well as in multinational corporations and white-dominated companies; whether remedies for discrimination were universally available; and whether anti-discrimination action had been taken by the executive branch and by the legislature, and not only by the judiciary.

13. Mr. TEXIER requested more information on specific steps being taken by the Government, such as general planning and training programmes, to try to reduce the major problem of a 35 per cent unemployment rate (paras. 16 and 17 of the report).

14. Mr. CHIFAMBA (Zimbabwe) said that, in the past, firms had often subverted the investigation of allegations of discrimination by submitting supposedly independent employment evaluations by outside consultants to make their case against employees, as in the instance cited. The reform measures now required objective in-house evaluations of employees alleging discrimination.

15. The Government had made the advancement of women a priority and many women held public posts of authority. The problem was in the private sector, where most firms were white-controlled and whites held almost all the management posts. The Government was working to change the situation, at least at the entry level, by requiring that blacks be given posts or engaged as apprentices until they were trained. Women, of course, suffered double discrimination on account of both race and gender. Discrimination between men and women was greater in the family setting than in the professional world because of the recent action taken by the Government. Legislation to counter gender discrimination had been enacted, and affirmative action programmes had been adopted to improve the lot of women.

16. In order to address the problem of the high rate of unemployment, the Social Dimensions Funds were being used not only to cushion the impact of unemployment but also to provide skills training in new fields for the unemployed. Assistance was also available under the National Social Security Authority. In the schools, a skills-oriented "education with production" programme had been instituted upon independence as a means of rehabilitating former combatants, and it prepared students to start their own enterprises. On the funding side, the Government's Venture Capital Company supported fledgeling enterprises while management skills were acquired and until the companies were self-sustaining. The Small Enterprise Development Corporation, as well, provided start-up capital; and most banks had small business units for such assistance.

17. Employment in the informal sector was beginning to rise but was difficult to quantify, as most of those working in that sector sought to avoid the tax net. In the formal sector, the Government was endeavouring to attract both domestic and foreign investment and to create an enabling environment through its Economic Structural Adjustment Programme, by offering incentives such as tax holidays, profit retention arrangements and the creation of export-processing zones. Despite Zimbabwe's wealth of resources, however, investment was not reaching the level hoped for. Under the Government's policy of indigenization in the construction, manufacturing and commercial industries, incentives were offered for domestic investment, and there were also private pressure groups working to the same end.

18. As the land acquisition programme became more effective in altering the present situation, where 1 per cent of the population controlled 54 per cent of the best land, it was hoped that more and more Zimbabweans would turn to the land as a source of livelihood.

19. Mrs. JIMENEZ BUTRAGUEÑO asked whether any requirements were imposed in the informal sector to ensure that minimum employment standards were met; whether government incentives included financial advantages given to multinational corporations; and whether the Government was planning to impose heavier taxes on the fortunes of large landowners.

20. Mr. ADEKUOYE said that a major obstacle to solution of the problem of unemployment and underemployment in Zimbabwe, one which had not been addressed in the report, was the 3.1 per cent population growth rate, one of the highest in the world. He wondered what steps the Government was taking to deal with that problem, common to all of Africa.

21. The Government had furnished some statistics relating to employment of women in the informal sector, but more information was needed on the structure of that sector in general and on the kind of informal small-scale enterprises in which women were reportedly employed.

22. He was dubious that the Government's land redistribution programme would succeed. In many countries young people did not want to go back to the land, for they viewed doing so as a sign of failure. He wondered whether that was the case in Zimbabwe.

23. Mr. TEXIER noted that while unemployment was reported to be rising in the formal sector, detailed figures had not been given for the informal sector, where work, often with no benefits, was precarious at best. Was an expansion of the informal sector really desirable? The Covenant in articles 6 and 7 envisaged true, stable employment with just and favourable conditions of work.

24. Mr. CHIFAMBA (Zimbabwe) said that the workers' committees mentioned in paragraph 20 of the report determined working conditions through collective bargaining in small and medium-sized firms in the formal sector. Zimbabwe was also highly unionized, and had strong trade unions. There was no guarantee, however, that working conditions in the informal sector, where so much of the work was undeclared, were satisfactory.

25. He agreed that the multinational corporations in Zimbabwe were exploitative, although the National Social Security Authority did inspect safety and health conditions in the workplace of even the largest enterprises. Moreover, because of their strong trade unions, workers had always been able to press for advantages. They had, for example, rebelled against the waiver of labour laws in export-processing zones and had succeeded in overcoming the opposition of both the Government and the multinational corporations. The Government was trying to encourage multinational corporations to engage in joint ventures with indigenous workers as a way of reducing discrimination against blacks in employment.

26. Regarding land reform, the Government was currently studying the report of its Land Tenure Commission, which recommended ways of reforesting degraded land that had been resettled and proposed a land tax to discourage the use of agricultural land for purely grazing purposes by large landowners.

27. He agreed with Mr. Adekuoye that the high population growth rate was a matter of serious concern, not only in relation to employment but also in connection with the provision of free education. In the past, high population growth rates had been considered bad for development, but the experience of the Asian countries showed that a large population could be an asset in achieving an economic boom. Zimbabwe, despite its large population, still had the advantage of producing a food surplus. Moreover, the Government was having some success with its family planning and sex education programmes.

28. The statistics on the informal sector given in the report indicated that data collection had not been a total failure. However, there was still a margin of error. As to the structure of the informal sector, informal enterprises were always rudimentary but were a stepping-stone for the launching of small-scale industries in the formal sector, at a much higher level. The line of demarcation between cottage industries and formal industries was sometimes blurred.

29. Mr. TEXIER observed that expansion of the informal sector was of benefit only if it was in fact a stepping-stone to small or even large-scale enterprises. A large informal sector in itself, however, should not be seen as a solution to problems or even as a panacea, especially where it became a permanent feature of the economy.

30. Mr. CHIFAMBA (Zimbabwe) confirmed the reluctance of young people in Zimbabwe to work on the land. The current farming practice, where land was left fallow and farmers did not work for eight months of the year, was part of the problem. However, the Government's dam construction policy should help to change that situation. The young needed to be shown the full potential of the land before they would regard farming as a worthwhile occupation. The Economic Structural Adjustment Programme aimed to spur production in rural areas, using the concept of village growth points to halt the drift to the towns, and providing for such measures as electrification of villages and construction of housing. After production, of curse, came marketing and distribution. The process of agricultural reform was a long one.

31. Mr. ANTANOVICH, referring to paragraph 17 of the report, which highlighted the high rate of unemployment stemming from the discrepancy between the number of school leavers and the number of jobs created each year, expressed some doubt regarding the possibility of ever solving the development problems attributable to the increasing pool of unemployed young persons. Those were problems which many countries would have to face in the years to come.

32. Mr. CHIFAMBA (Zimbabwe) said that the school leavers referred to in that paragraph were actually graduates of learning institutions. His Government recognized the need to reduce levels of unemployment and was making every effort to revise the school curriculum with a view to developing skills training. Regional cooperation was also seen as an important factor that could contribute to economies of scale, and thus ease the burden of unemployment.

Article 7: Right to enjoyment of just and favourable conditions of work

33. Mr. WIMER asked whether there were any forms of legal discrimination against women in Zimbabwe.

34. Mrs. BONOAN-DANDAN drew attention to the fact that the disadvantages suffered by women were often difficult to assess. She was therefore curious to know how the Government monitored the existence of discrimination on the basis of sex, and whether there was a process of review of legal standards to determine their influence on conditions of work.

35. Mr. CEVILLE drew attention to an apparent contradiction between the information in paragraph 27 of the report and that given in paragraphs 28 and 29. The fact that working conditions of women were inferior to those of men, and the fact that less educated women were at some disadvantage before the courts seemed inconsistent with the statutory prohibition of discrimination.

36. Mr. TEXIER asked whether deregulation had been responsible for the increase in the number of dismissals since 1990, or for the decline in the minimum wage levels during the same period.

37. Mr. ADEKUOYE said that he wished to know the conditions for the grant of work permits to non-nationals of Zimbabwe and what legal provision was made for the protection of workers, particularly in the mining, domestic and farming sectors.

38. He also requested statistics on the type and frequency of occupational accidents and an indication of relative wages in the private and public sectors.

39. Mrs. JIMENEZ BUTRAGUEÑO asked for a comparison of wages between the formal and informal sectors of the economy and reiterated Mr. Adekuoye's concern for safety at the workplace.

40. The CHAIRPERSON said it was clear from paragraph 24 of the report that minimum wages in Zimbabwe had declined. He questioned the real meaning of free negotiations and suggested that from the unemployment index in Zimbabwe, such freedom appeared to work in favour of the employer. States parties to the Covenant should make every effort to redress imbalances in order to allow workers to benefit from wage increases.

41. Mr. CHIFAMBA (Zimbabwe) said that, in its efforts to improve the situation in the area of discrimination, the Government of Zimbabwe responded swiftly to reports of contravention of labour standards. Several mechanisms, including free legal aid, had been established to strengthen the outreach capacity of the competent labour authorities in conducting investigations at the shop floor level. The Government relied heavily on the affected parties making representations directly or through non-governmental organizations, which could take follow-up action on their behalf.

42. Deregulation had not necessarily led to a decline in minimum wages and there had in fact been a general upward trend of remuneration. However, because of the high level of unemployment, competition had created a situation where the employer's capacity to dismiss workers was used as leverage in negotiations. Workers in the commercial and industrial sectors were actually in favour of deregulation because employers had previously used the existence of a minimum wage as an argument for keeping wages low.

43. The freedom to negotiate had dual consequences: on one hand, unionization had led to greater awareness among workers and had improved their capacity to present their demands. On the other hand, employers used the threat of dismissal as a weapon to offset arguments highlighting discriminatory practices.

44. It was questionable whether deregulation by itself had given rise to unnecessary dismissals, but it might have done so as a part of structural adjustment. However, compensation for job losses counteracted the effect of dismissals and led to new investment, for in many cases released workers were able to establish a business of their own, using their severance allowance as capital.

45. Refugees were granted work permits, as were expatriates from other countries who had skills that were in short supply in Zimbabwe. Foreign investors usually wished to employ their own nationals as managers, but the

Government made every effort to ensure that Zimbabweans were also considered for employment in multinational companies. It had recently enacted legislation equalizing citizenship requirements for foreign men and women marrying nationals of Zimbabwe.

46. An explanation for the apparent contradiction between the prohibition of discrimination referred to in paragraph 27 and the inferior conditions of work for women mentioned in paragraph 28 lay in the hypothetical nature of the information given, which was not simply a bare statement of fact. Paragraph 29 was an elaboration indicating that educated persons were in a better position than the illiterate to defend their positions. The latter might, however, apply for legal assistance or request representation by their workers' committee. Action was being taken to educate female workers on their rights.

47. He undertook to furnish the information which had been requested concerning comparative wages.

48. Referring to the comments which had been made concerning the current trend towards deregulation of labour, which effectively reduced security of employment, he said that while that trend had not yet affected the Zimbabwean civil service, performance-related criteria were nevertheless being introduced. Cost-cutting measures in place included steps to reduce the size of the civil service, but that would be undertaken scientifically in accordance with non-discriminatory criteria. In general, however, deregulation tended to undermine job security.

49. Mr. WIMER restated his question as to whether any legal discrimination existed in Zimbabwean labour legislation. Although all modern constitutions called for equality, legislation frequently embodied discrimination.

50. Mr. CHIFAMBA (Zimbabwe) said he was not aware of any form of discrimination under his country's existing legislation.

51. Mr. RATTRAY said that the information presented to the Committee clearly reflected the importance attached in Zimbabwe to holding employment. He would like to learn the reason for that. The report contained no reference to unfair dismissal, and he asked whether any provision was made for ordering reinstatement, as opposed merely to granting compensation, since it appeared that jobs were difficult to find.

52. Mr. CHIFAMBA (Zimbabwe) confirmed that channels existed for appeal against dismissal that was deemed unjustified, particularly for breach of contract. Top management executives, for example, might be dismissed for non-performance as determined by the Board of their company or by the Government. A reinstatement ruling might be given, unless the employer insisted on the employee's removal, in which case the latter would receive substantial compensation. However, educated individuals were better equipped to deal with the legal issues involved in such situations, while the union movement should assume the task of making the lower echelons of workers aware of their rights.

53. Mrs. BONOAN-DANDAN said that monitoring of discrimination appeared to be conducted primarily by NGOs, while government agencies existed to deal with complaints of discrimination and labour relations matters. She asked how many cases of sex discrimination had been reported during the previous year by women. The report of Zimbabwe referred to the continued prevalence of child labour, which was not illegal, including in the mining industry, and stated that protection existed for working children. She asked why that practice was still so widespread, and what past or present government measures addressed the problem.

54. Mrs. JIMENEZ BUTRAGUEÑO requested information on the protection available to employees, other than top level management, who lost their jcbs. Were other employees in the formal sector who became redundant eligible for social security or unemployment benefit? Did any type of fund exist to ensure the economic survival of persons in the informal sector who lost their jobs?

55. Mr. ADEKUOYE requested information on the outcome of the study undertaken by the Inter-Ministerial Committee on Child Labour that was mentioned in paragraph 37 of the report.

56. Mr. CHIFAMBA, replying to the members' questions, said that a dismissed person received terminal benefits calculated on the basis of years of service. Compensation was generally sought only in cases of alleged unjustified dismissal, which were settled by the courts or by the Ministry of Labour's industrial relations tribunal. The Government and the trade unions would need to do much in order to inform the lower echelons of labour of their rights, before a genuine avenue could be opened for shop-floor workers to contest dismissal. He undertook to provide specific information on the number of sex discrimination cases reported. He believed that reports of sexual harassment in the workplace tended to be more frequent than reports of sex discrimination, which reflected broader recognition of women's rights in both the public and private sectors.

57. On the subject of child labour, the report contained information on the legal minimum age for employment. Child labour certainly existed, to an extent that depended on how the phenomenon was defined. Very broad definitions would include the situation of a child assisting its parents in the household or in agricultural work. The crux of the matter was really whether activities engaged in by children might be considered part of learning skills to ensure survival. The gravest problems related to children required to work in such sectors as mining, where small boys were useful on account of their size. Paragraph 37 outlined action being taken by the Government to deal with the problem. The population had formerly relied more extensively on farming. The problem of child labour had become prevalent only after the drought years of the 1980s and 1990s when people had turned to gold panning, which proved to be more profitable than agriculture. The Government was endeavouring to counter that trend because of the damage it was causing to the environment. Strong measures might have to be taken to encourage people to return to traditional agricultural activities. In short, the Government was aware of the problem which existed and had initiated corrective action.

58. Mrs. BONOAN-DANDAN requested more up-to-date information on the subject of child labour.

Article 8. Right to form or join a trade union

59. Mr. TEXIER considered that the conditions attached to the right to strike in Zimbabwe were somewhat restrictive. Although those listed in paragraph 59 of the report applied in many countries, the ban on strikes by civil servants might give cause for concern if it implied that all civil servants, including for instance teachers, were denied the right to strike.

60. Mr ADEKUOYE drew attention to the apparent contradiction between the fact that Zimbabwe's Constitution did not provide for trade unionism in the civil service, while paragraph 27 of the delegation's written response to the list of issues named a number of unions existing in the Public Service. He requested confirmation that a number of civil service unions had indeed gone out on strike recently. He suggested that the restriction upon exercising the right to strike imposed on workers employed in "essential services" allowed the Government considerable latitude. He would welcome further information on how such restrictions were applied.

61. Mr. ANTONOVICH asked the delegation of Zimbabwe to indicate the conditions that trade unions had to meet before registration (E/1990/5/Add.28, para. 5).

62. Mr. RATTRAY asked whether the power of the appropriate minister to terminate or suspend a strike applied exclusively to essential services or included all services; whether the constitutional provision embodying the right to strike would enable the employer to argue that the contract of employment had been breached by a person exercising the right and consequently terminate employment, and whether a tribunal existed to examine cases in which procedures governing strikes had been applied, and, if so, would its ruling be binding on all parties, or might be subject to further judicial review.

63. Mr. THAPALIA asked what percentage of the labour force had successfully joined trade unions under the existing trade union legislation and what percentage had achieved their collective bargaining aims by going out on strike. He also requested information on the number of working hours lost in the industrial sector through strikes.

64. Mrs. JIMENEZ BUTRAGUEÑO requested information concerning the bargaining power possessed by civil servants, and the channels open to them for making their views known.

65. Mr. ADEKUOYE asked for confirmation of his understanding, from paragraph 53 of the report, that the Minister of Public Service, Labour and Social Welfare effectively held a power of veto over applications by trade unions to join international trade union organizations, and whether that was not counter to the relevant ILO Convention.

The meeting rose at 6 p.m.